

REMARKS

Applicants wish to thank the Examiner for the indication that the prior Office Action has been withdrawn in response to Applicants' arguments filed on January 20, 2004.

Claims 1-13 and claim 16 have previously been cancelled. Claims 14, 15, 17, 19, 27, 28 and 31-33 have been cancelled in this amendment. Accordingly, claims 18, 20-30 and 34 are pending in the application.

Claim 34 has been amended to independent form to include all of the limitations of base claim 17. Because claim 34 is not indicated to be withdrawn and there is no outstanding rejection of claim 34, it is believed that claim 34 is in allowable form.

Applicants respectfully request that the Examiner reconsider the improper withdrawal of claims 18 and 20. In this regard, it is specifically requested that should the Examiner maintain the withdrawal, the Examiner respond specifically to the arguments presented below so that Applicants may understand the Examiner's position on withdrawing the claims before undergoing the expense of preparing and filing a Petition/Appeal regarding the Examiner's continued withdrawal of these claims.

With respect to the Examiner's earlier indication that claim 18 had been withdrawn for being directed towards a non-elected invention, upon reviewing the determination, Applicants believe it is in error. More specifically, in the Office Action dated April 23, 2002 (Paper No. 1), the Examiner made a restriction requirement

requiring an election between inventions of Group I (claims 1-12) and Group II (claims 13-30), and if the Group II claims were elected, an election between Group A (claims 13-28) and Group B (claims 29 and 30) and an election of species grouped by the Examiner as:

Figs. 1-3 and 10-13

Figs. 4, 5 and 10-13

Figs. 6-8 and 10-13

Fig. 9-13.

In response to this requirement, Applicants, with traverse, elected the claims of Group II (claims 13-30), the claims of subgroup A (claims 13-28) and the species of Figs. 1-3 and 10-13. Applicants then went on to specifically state that claim 18 read on the embodiments illustrated in both Figs. 10 and 11 which show the elected species. Accordingly, claim 18 reads on the elected invention and species and should not have been withdrawn from examination. In view of this, Applicants respectfully request that claim 18 be examined as proper.

Claims 21-26 depend from claim 18, which is believed to be allowable, and which is generic to the elected species as well as the alleged species of Figs. 4 and 5 which are read on by claims 21-26. Accordingly, in view of the apparent allowability of claim 18, an action on the merits for claims 21-26 should be in order.

In the prior Office Action which now has been withdrawn, the Examiner for the first time indicated that claim 20 had been withdrawn from consideration. In

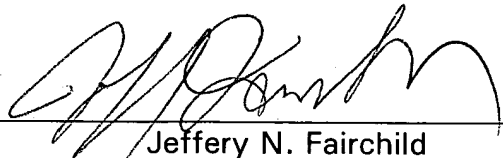
the current Office Action, the Examiner has again indicated that claim 20 is withdrawn. The withdrawal from consideration has been done despite the fact that the Examiner did consider claim 20 and issued a rejection of claim 20 in the Office Action dated July 8, 2002. The next Office Action dated March 10, 2003 withdrew the rejection of claim 20 and failed to state any new rejection of claim 20, while noting that other claims were withdrawn. Importantly, this Office Action did not withdraw claim 20. The fact that claim 20 was not withdrawn or rejected was pointed out in Applicants' Amendment "B" wherein Applicants argued that claim 20 appeared to be in condition for allowance in view of its amendment to independent form. Rather than address this point, the Examiner has simply indicated that claim 20 is withdrawn without any comment or rationale. The withdrawal is ill-timed and improper at this late date in the prosecution, particularly after the Examiner has already considered claim 20 and after Applicants have undergone the expense of consideration the rejection in the Office Action dated July 8, 2002. Furthermore, the withdrawal is improper because claim 20 clearly reads on the elected invention and species identified in Applicants' Response filed under a certificate of mailing dated May 20, 2002.

Again, to the extent that the Examiner maintains the withdrawal of claims 18 and 20, it is requested that the Examiner explain in detail the Examiner's rationale for determining that these claims are drawn to a non-elected invention.

In view of the foregoing, Applicants respectfully request reconsideration of the withdrawal of claims 18 and 20-30, and allowance of the case.

Respectfully submitted,

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